

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE: AFTERMARKET FILTERS ANTITRUST LITIGATION	Master Docket No.: 08-cv-4883 MDL No.: 1957 Honorable Robert W. Gettleman Honorable Geraldine Soat Brown
This Document Relates to: All Actions	

ALL PLAINTIFFS' STATUS REPORT

After meeting and conferring with Defendants, the parties were unable to reach agreement about the scheduling of discovery and depositions. Defendants have indicated that they desire to file summary judgment motions prior to the completion of the depositions identified by Plaintiffs as essential. Moreover, they believe that Plaintiffs should be required to seek leave of the Court to take any depositions which, in Defendants' estimation, are not necessary in order to respond to their summary judgment motions. Plaintiffs, on the other hand, believe that the ordinary discovery rules contemplated by the Federal Rules of Civil Procedure ought to apply.

Deposition Schedule

In the January 26, 2011 joint status report, Plaintiffs identified 88 depositions that they believed should be taken in this case. After extensive meet and confers with Defendants and after prevailing on motions before this Court (Doc. No. 733), Plaintiffs worked with Defendants to schedule more than 50 of these depositions. When this case was stayed on April 14, 2011, Plaintiffs had completed only 3 of these depositions.

In light of the settlements reached with three of the initial seven Defendants coupled with additional work by Plaintiffs to refine and focus their cases during the stay, Plaintiffs have narrowed the list of remaining potential deponents from more than 80 to 38. Of these 38 deponents, Plaintiffs have further sorted them into two tiers that are reflected in the accompanying Proposed Order. In an effort to accommodate those Defendants who wish to seek summary judgment before the close of discovery, Plaintiffs have identified 23 “Tier 1” deponents who, in Plaintiffs view, are essential before any Defendant can seek summary judgment.

Plaintiffs propose that the parties meet and confer after the completion of the Tier 1 depositions to ascertain whether any of the Tier 2 depositions are no longer necessary. In addition, any Defendant wishing to seek summary judgment after the completion of the Tier 1 depositions may seek to do so pursuant to Paragraph 2 of the Court’s January 20, 2012 Order, which allows such defendants to serve Plaintiffs with a copy of their proposed motion and then to meet and confer with Plaintiffs about the scheduling of remaining discovery.

Witness Documents

The parties also disagree about the production of documents that are in the possession of witnesses. Defendants propose that documents in the possession of witnesses not be produced until three weeks before that person’s deposition. Plaintiffs believe that these documents should be produced no later than three weeks before the first scheduled deposition. First, failure to produce these documents before depositions begin would be grossly inefficient. For example, under Defendants’ proposal, a communication between witnesses might not be produced until after one of those witnesses has been deposed, thus potentially necessitating a second deposition

of that witness. Second, with very limited exception, these deponents have been identified by Defendants as party witnesses. In other words, the documents in the possession of these witnesses were requested by Plaintiffs *years* ago and already should have been produced to Plaintiffs. There is no justification for further delay.

Chris Boesel

Honeywell has indicated that it objects to the deposition of Chris Boesel. Plaintiffs propose that the Court set the following expedited briefing schedule to resolve this issue. Plaintiffs' motion due Tuesday, February 7, 2012; Honeywell response due Friday, February 10, 2012; Plaintiffs' reply due Wednesday, February 15; argument (if necessary) Friday, February 17, 2012.

Date: February 2, 2012

Respectfully submitted,

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